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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

LYNNETTE COOK, RODNEY JAY
VESSELS, JULIE TITTLE
TAGGART,

Plaintiffs,

v.

CORPORATION OF THE
PRESIDENT OF THE CHURCH OF
JESUS CHRIST OF LATTER-DAY
SAINTS, a Utah corporation sole,

Defendant.

**RESPONSE TO PLAINTIFFS'
RULE 12(f) MOTION TO
STRIKE**

Case No. 2:20-CV-00080-TS-PMW

The Honorable Ted Stewart
The Honorable Paul M. Warner

Corporation of the President of The Church of Jesus Christ of Latter-day
Saints (the “Church”) submits this Response to Plaintiffs’ Rule 12(f) Motion to
Strike (Docket 12).

Plaintiffs filed an improper sur-reply to Defendant's Motion to Dismiss on March 19, 2020, (the "Sur-Reply") in violation of DUCivR 7(b)(2). In the Sur-Reply plaintiffs wrote that they "asked the Church to end this controversy" and that they "offered to settle with the Church." Docket 9 at 2. Plaintiffs further described their settlement offers as follows:

Plaintiffs offered a plan that would eliminate world poverty and child prostitution, using Plaintiffs' experts and the contacts, power and influence of the Church. The second option we offered was to simply agree to a "Statement of Real Truth," *which we prepared for the purpose of eliminating further fraud from being perpetrated by the Church.*

Id (emphasis added).

The Church's two-paragraph response noted that the Sur-Reply was filed in violation of the Court's rules and that Plaintiffs omitted to attach to the Sur-Reply the actual correspondence, including the "Statement of Real Truth" to which they referred. Accordingly, the Church attached the correspondence to its response. *See* Docket 11.

Plaintiffs now complain that, according to the Federal Rules of Evidence, settlement correspondence is confidential and inadmissible. But it was Plaintiffs—not the Church—that originally raised the subject of Plaintiffs' settlement offers and discussed the so-called "Statement of Real

Truth.” Having done so, Plaintiffs opened the door and waived any protection that otherwise would have been afforded their settlement communications.

In short, Plaintiffs should not now be heard to complain that the Church provided the Court with the actual correspondence to which Plaintiffs’ referred and described in detail in their Sur-Reply. Apparently, Plaintiffs now recognize that the “Statement of Real Truth” only highlights the non-justiciable nature of their “fraud claims.” But the doctrine of completeness allows the Court to view the actual document Plaintiffs’ described in their Sur-Reply. Accordingly, the Motion to Strike should be denied.

Regardless, the Motion to Strike also fails because the Church has not sought admission of the correspondence into evidence. The rules cited by Plaintiffs—Rule 408—is a rule of *evidence*. And the Church’s Motion to Dismiss is brought under Rule 12(b)(6) of the Federal Rules of Civil Procedure for failure to state a claim. As set forth in the Motion to Dismiss, such motions are decided on the *pleadings*. And no evidence is taken by the Court at this stage. The correspondence was attached only for the sake of completeness in the face of Plaintiffs’ references to it. Accordingly, the

Motion to Strike is moot.

DATED: April 2, 2020.

STOEL RIVES LLP

/s/ David J. Jordan

David J. Jordan
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the President of The Church of Jesus
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CERTIFICATE OF SERVICE

I hereby certify that on April 2, 2020, a true and correct copy of the foregoing **RESPONSE TO PLAINTIFFS' RULE 12(f) MOTION TO STRIKE** was served via email and U.S. mail upon the following:

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